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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,929	01/24/2000	Richard A. Lodge	9-13528-77US	6470

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EXAMINER

TRAN, PABLO N

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 11/29/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/489,929

Applicant(s)

LODGE ET AL.

Examiner

Pablo N Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12, 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 12 and 32, limitation "the predetermined delay is a period of random length". How can a predetermined delay period is of random length. Claims 12 and 32 will not be examined further.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 21-22, and 41-42 are rejected under 35 U.S.C. 102(b) as being anticipated by *Marturano et al.* (5,636,230).

As per claims 1, 21, and 41, *Marturano et al.* disclosed a base station (fig. 1) being adapted for communications with one or more wireless terminals (fig. 1) over a

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wireless link wherein the base station identify a poorly performing link and temporarily interrupting data transmission over the poorly performing wireless link (abstract).

As per claims 2, 22, and 42, *Marturano et al.* further disclosed monitoring one or more performance parameters related to each wireless link and comparing each monitoring performance parameters to a respective predetermined threshold (col. 3/ln. 9-19).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-20, 23-40, and 43-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Marturano et al.* (5,636,230) in view of *Purnadi et al.* (6,201,971).

As per claims 3, 23, and 43, *Marturano et al.* disclosed such performance parameters of the wireless link but does not specifically disclose the performance parameters are based for quality of services (QOS). *Purnadi et al.* disclosed such performance parameters are use for QOS (abstract, col. 2/ln. 31-34). Therefore, it would have been obvious to one of ordinary skill in the art to implement such QOS level parameters as discussed in *Purnadi et al.* are based on the performance parameters of the wireless link of *Marturano et al.*, in order to provide for a managed and non-abrupt service degradation of QOS level parameters during a communication session.

As per claims 4, 24, and 44, *Marturano et al.* further disclosed at least one of the performance parameters are S/N ratio, C/I ratio, BER ratio, user data throughput rate, or a number of suspended frames (col. 3/ln. 64-col. 4/ln. 7).

As per claims 5, 25, and 45, *Marturano et al.* further disclosed an average is taken for at least one of the performance parameters are S/N ratio, C/I ratio, BER ratio, user data throughput rate, or a number n of successive burst (col. 4/ln. 55-61).

As per claims 6, 14, 26, 34, 46, and 50, *Marturano et al.* further disclosed suspending transmission of a data frame (fig. 1/no. 110-112) over the poorly performing wireless link (abstract).

As per claims 7, 15, 27, 35, *Marturano et al.* further disclosed resuming transmission of the data frame after a delay (fig. 3/no. 312).

As per claims 8, 16, 28, 36, *Marturano et al.* further disclosed the delay period is of random length (col. 1/ln. 21-54).

As per claims 9, 17, 29, 37, 47, and 51, *Marturano et al.* further disclosed maintaining a count of suspend frames (col. 3/ln. 6-19).

As per claims 10, 18, 30, 38, 48, and 52, *Marturano et al.* further disclosed suspending transmission if the count of suspended frames exceeds a predetermined threshold (col. 3/ln. 6-19).

As per claim 11, 31, *Marturano et al.* further disclosed restarting the transmission after a predetermined delay (fig. 3/no. 311).

As per claims 13, 33, and 49, *Purnadi et al.* disclosed the QOS performance parameters comprising any one of a data transmission delay or a number of dropped frames delay (col. 2/ln. 31-34),

As per claim 19-20, 39-40, and 53-54, *Purnadi et al.* disclosed monitoring such QOS performance parameters to determine if the QOS level is degraded and to prevent suspension of transmission a lower priority QOS level is selected (abstract).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Scholefield et al. (5,752,193), Dupont (5,729,542), Marin et al. (5,936,940), Kilkki et al. (6,011,778), Behtash et al. (5,745,480), Marsan et al. (6,131,049), and Kingdon et al. (6,078,818) disclose method for controlling QOS level parameters in a radiotelephone system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (703)308-7941. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Hunter, can be reached at (703)308-6732.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)


Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

November 17, 2001

Pablo Tran


Examiner, Art Unit 2684


DANIEL HUNTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600